

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

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**NOTICE OF HEARING AND APPLICATION FOR INTERIM COMPENSATION**

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TO: All interested parties.

1. Leonard, O'Brien, Spencer, Gayle & Sayre, Ltd. ("**Firm**") applies for the relief requested below.

2. The Court will hold a hearing on this motion on December 8, 2010 at 2:00 p.m. before the Honorable Robert J. Kressel in Courtroom 8 West, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and served by delivery no later than December 3, 2010 which is five (5) days before the time and date set for the hearing (including, Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This case was commenced as a voluntary Chapter 7 proceeding on June 4, 2009. The case is now pending before this Court.

5. This motion arises under 11 U.S.C. §331, Bankruptcy Rule 2016(b) and Local Rule 2016-1. This application is filed under Bankruptcy Rule 9014 and Local Rule 9013-2. The Applicant requests relief with respect to the allowance of interim compensation for attorneys' fees and expenses incurred by the Firm from November 1, 2009 to August 31, 2010.

6. Attached hereto as Exhibit A is the Court's Order approving this firm's employment as counsel for the Trustee.

7. There was no retainer fee paid to the Firm and the Firm has made one previous interim application. The Firm was awarded \$372,278.75 for attorney fees and \$11,834.17 for expenses on December 16, 2009. The bankruptcy estate has paid the Firm all amounts previously allowed by the Court.

8. The attorneys and paralegals with time entries on this file, their normal hourly rates are as follows: Matthew R. Burton, \$360.00 per hour in 2009 and \$375.00 per hour in 2010, James M. Jorissen, \$350.00, Ernest F. Peake, \$325.00 per hour, Grover C. Sayre, \$295.00 per hour, Andrea M. Hauser, \$275.00 per hour, Jordan W. Sayre, \$150.00 per hour, Jennifer M. Adkisson, \$90.00 per hour and Brianna M. Johnson, \$90.00 per hour.

9. The total of fees billed by the Firm is \$480,925.75, together with expenses in the amount of \$21,181.36. A general description of the services provided is as follows:

(a) **General** - This category related to communicating with the client and other interested parties regarding case issues. This category also includes many miscellaneous matters and communications, matters which did not readily fit into any other category and some multiple category entries. Approval is sought for payment of legal fees in this category in the amount of \$120,091.00. See attached Exhibit B.

(b) **2004 Discovery** - Time in this category related to preparing multiple motions for 2004 examinations of various individuals and entities. Issued subpoenas upon various parties for records; reviewing voluminous records produced pursuant to subpoenas and conducted examinations of various parties. Approval is sought for payment of legal fees in this category in the amount of \$54,098.25. See attached Exhibit C.

(c) **Property Research/Investigation** - The time in this category related to investigation of the Debtor's real and personal property including, but not limited to, the Silver Cliffs property. Approval is sought for payment of legal fees in this category in the amount of \$1,911.25. See attached Exhibit D.

(d) **Brainerd Toyota** - The time in this category related to multiple conferences with interested parties; negotiated with numerous parties; worked on multiple transaction documents; prepared two motions for approval of sale. Review Cornerstone Bank appeal pleadings; prepared numerous appeal documents including brief; prepared for and attended oral argument with respect to appeal. Settlement resulted in \$400,000.00 to the estate. Negotiated final settlement with Cornerstone Bank. Approval is sought for payment of legal fees in this category in the amount of \$39,367.00. See attached Exhibit E.

(e) **Cabo** - The time in this category related to the Adversary Proceeding No. 09-5042 against Jacob Holdings of Ventanas LLC, Jacob Properties of Minnesota LLC, Wells Fargo Bank, Cornerstone Bank, and Chrysler Financial Services Americas, LLC; prepared default motion documents; prepared discovery to Wells Fargo and conferences with various parties. Correspondence with realtors in Mexico regarding sale of property; drafted motion to sell real estate; worked with realtor on listing agreement; drafted and revised proposed settlement agreement; prepared a motion to approve settlement agreement; serve and file with court. Approval is sought for payment of legal fees in this category in the amount of \$17,840.25. See attached Exhibit F.

(f) **Chrysler** - The time in this category related to reviewing motions and preparing documents to produce for Trustee's deposition. Time includes negotiating agreements with Chrysler. Approval is sought for payment of legal fees in this category in the amount of \$2,430.00. See attached Exhibit G.

(g) **Crosslake** - The time in this category related to the adversary proceeding against Sydney Holdings of Crosslake LLC, Jacob Properties of Minnesota LLC and RiverWood Bank, f/k/a First Federal Savings Bank (Adv. No. 09-5031); drafted default motion papers; correspondence with various parties regarding Crosslake property; reviewed and edited settlement agreement with TCF Bank. Approval is sought for payment of legal fees in this category in the amount of \$2,919.25. See attached Exhibit H.

(h) **TCF Bank** - The time in this category related to reviewing potential preference claims against TCF Bank; draft preference demand to TCF Bank; numerous conferences with various parties regarding resolution of preference demand against TCF Bank; drafted settlement agreement; prepared motion to approve settlement. Approval is sought for payment of legal fees in this category in the amount of \$13,078.25. See attached Exhibit I.

(i) **Pacific Life Insurance Company** - The time in this category related to reviewing materials related to transfers to family insurance trusts; drafted demand letter; review of multiple correspondences from various parties. Approval is sought for payment of legal fees in this category in the amount of \$2,380.00. See attached Exhibit J.

(j) **Turnover Motions** - The time in this category related to preparing multiple motions for turnover of records from various entities and individuals and reviewing the voluminous documents produced pursuant to turnover orders. Approval is sought for payment of legal fees in this category in the amount of \$2,054.25. See attached Exhibit K.

(k) **Investments** - The time in this category related to reviewing corporate records for various entities of the Debtor and correspondence with various parties. Approval is sought for payment of legal fees in this category in the amount of \$898.50. See attached Exhibit L.

(l) **Adversary Proceedings** - The time in this category related to reviewing documents and preparing adversary complaints against various entities/individuals. Approval is sought for payment of legal fees in this category in the amount of \$9,352.25. See attached Exhibit M.

(m) **Rowan** - The time in this category related to preparing a complaint against Christi Rowan; prepared a contempt motion for failure to pay rent; reviewed documents produced by Trustone Bank; docketed judgments in various courts; worked on collection of judgment; garnished various banks to attempt to collect on judgment. Approval is sought for payment of legal fees in this category in the amount of \$15,434.25. See attached Exhibit N.

(n) **PSA Litigation** - The time in this category related to claims to a personal services agreement (PSA) issued to Hecker from the Inver Grove Toyota transaction; preparing an amended complaint; numerous phone conferences with various parties; prepared discovery responses; reviewed voluminous documents produced by various parties; reviewed and analyzed settlement agreement; drafted motion to approve settlement agreement; prepared motion for summary judgment with respect to PSA. Approval is sought for payment of legal fees in this category in the amount of \$43,008.50. See attached Exhibit O.

(o) **Transcend** - The time in this category related to assisting the Trustee with resolution of a sale of assets to Transcend Communications which resulted in the estate receiving over \$400,000.00. The estate retained \$65,000.00, and creditors received over \$350,000.00 as a result of these services. Approval is sought for payment of legal fees in this category in the amount of \$798.00. See attached Exhibit P.

(p) **Shady Roost** - The time in this category related to negotiations to sell the Debtor's interest in Shady Roost Lodge Corporation; review appraisal and multiple conferences with appraiser, prepared motion to sell real estate. The interest of Shady Roost was sold for \$50,000.00. Approval is sought for payment of legal fees in this category in the amount of \$6,093.50. See attached Exhibit Q.

(q) **Discharge** - The time in this category related to preparing §727 complaint; served and filed the same; numerous conferences with Debtor's attorney regarding settlement; settled discharge action. Hecker lost his discharge. Approval is sought for payment of legal fees in this category in the amount of \$3,058.50. See attached Exhibit R.

(r) **Tamitha Hecker/Divorce** - The time in this category related to settlement communications regarding assets held by Tamitha Hecker; numerous conferences with Ms. Hecker's attorneys; prepared settlement resolving the above issues prepared for and attended mediation. Approval is sought for payment of legal fees in this category in the amount of \$12,133.25. See attached Exhibit S.

(s) **Edgewood Litigation** - The time in this category related to preparing a complaint and default application; correspondence with opposing counsel and realtor regarding sale of property; prepared settlement agreement. The estate netted over \$20,000.00 from the sale. Approval is sought for payment of legal fees in this category in the amount of \$2,142.00. See attached Exhibit T.

(t) **Investigation** - The time in this category related to reviewing documents to investigate the Debtor's assets; numerous correspondences with various parties/entities; reviewed Hecker e-mails on USB drives; research various entities/individuals. Approval is sought for payment of legal fees in this category in the amount of \$30,060.25. See attached Exhibit U.

(u) **Cornerstone Bank/Blackstone Financial** - The time in this category related to researching Cornerstone Bank and Olson's connection to Debtor; prepared 2004 subpoenas; traveled to North Dakota for 2004 examinations; prepared complaint against Cornerstone Bank, Royal Jewelers, Inc., Cornerstone Holding Company, Inc. and Richard Olson (Adv. No. 10-5022) alleging that the Debtor had made preferential transfers and alleging other claims; reviewing the U.S. District Court docket with respect to the Blackstone Financial, LLC/Cornerstone appeal. It is believed the value of the Cornerstone case exceeds \$2,000,000.00. Approval is sought for payment of legal fees in this category in the amount of \$73,739.25. See attached Exhibit V.

(v) **Applications** - The time in this category related to preparing and serving the first interim fee application for approval of payment of attorneys' fees and costs. Approval is sought for payment of legal fees in this category in the amount of \$504.00. See attached Exhibit W.

(w) **Freedom First Financial** - The time in this category related to reviewing e-mails and documents from John Brandt and telephone conferences with various parties. Approval is sought for payment of legal fees in this category in the amount of \$330.00. See attached Exhibit X.

(x) **Neiman Marcus** - The time in this category related to drafting complaint against Neiman Marcus to recover an alleged preferential transfers pursuant to 11 U.S.C. §547 (Adv. No. 09-5052); prepared application for default against Neiman Marcus; telephone conferences with Attorney Melser; prepared settlement documents. The estate received \$4,240.50. Approval is sought for payment of legal fees in this category in the amount of \$684.00. See attached Exhibit Y.

(y) **Spring Hill Country Club** - The time in this category related to reviewing bylaws and multiple correspondences with R. Soskin regarding sale of equity membership. Approval is sought for payment of legal fees in this category in the amount of \$756.25. See attached Exhibit Z.

(z) **James Gustafson** - The time in this category related to preparing objection to motion for leave to appeal; prepared motion for contempt; prepared and filed all required appeal documents; prepared application for default judgment; attend multiple hearings; prepared for and examined Gustafson. Approval is sought for payment of legal fees in this category in the amount of \$16,117.50. See attached Exhibit AA.

(aa) **JM&A** - The time in this category related to preparing 2004 motion for JM&A; telephone conference with Attorney Grinnell; reviewed JM&A materials. Approval is sought for payment of legal fees in this category in the amount of \$600.00. See attached Exhibit BB.

(bb) **Gelco** - The time in this category related to researching Gelco's obligation and relationship of US Bank claim; reviewed UCC filings and claims. Approval is sought for payment of legal fees in this category in the amount of \$1,098.75. See attached Exhibit CC.

(cc) **New Buffalo Auto Sales** - The time in this category related to multiple phone conferences with various parties; drafted complaint; settlement negotiations with various parties; worked on demand letter. This matter is pending. Approval is sought for payment of legal fees in this category in the amount of \$5,518.75. See attached Exhibit DD.

(dd) **U.S. Bank Preference** - The time in this category related to analyzing and reviewing bank records and U.S. Bank preference analysis and new value defense; numerous e-mails and phone conferences with U.S. Bank's counsel, Monica Clark; drafted settlement proposal. This matter hasn't been resolved. Approval is sought for payment of legal fees in this category in the amount of \$1,315.00. See attached Exhibit EE.

(ee) **Inver Grove** - The time in this category related to the sale of Inver Grove Toyota. Approval is sought for payment of legal fees in this category in the amount of \$1,113.75. See attached Exhibit FF.

(ff) **Costs and Disbursements** - The costs and disbursements relate to the time period from November 1, 2009 to August 31, 2010. Approval is sought for payment of costs and disbursements in the amount of \$21,181.36. See attached Exhibits B, D, E, F, H, J, N, O, S, U, V and AA).

10. The Firm is not aware of the total amount of other Chapter 7 administrative expense claims but knows that they include other counsel for the Trustee (Randall L. Seaver, Ralph Mitchell and Gordon Conn) and an accounting professional (Linda Berreau). The Firm believes there will be sufficient funds to pay all Chapter 7 administrative expenses. The Firm has been advised that the Trustee has over \$1,600,000.00 in his accounts for this case.

11. The Firm believes that all of the services rendered and described herein are services that were necessary and appropriate to be rendered by legal counsel. However, the Firm agrees to reduce the compensation which it seeks by \$24,000.00, or about 5%, at the request of the Trustee.

12. As disclosed in both the Verified Statement and the Employment Application in this case, Randall L. Seaver was a member of the Firm through an "Of Counsel" relationship with the Firm. That relationship was terminated on October 22, 2009.

**WHEREFORE**, the Firm applies for allowance of interim compensation for attorneys' fees in the amount of \$456,925.75 and for allowance of interim compensation for expenses in the amount of \$21,181.36 and requests that the Trustee be authorized to pay such of these fees as is appropriate. Payment to the Firm from unencumbered and non-disputed funds, and only in such amount as the Trustee believes appropriate, considering other unpaid Chapter 7 expenses.

**LEONARD, OBRIEN,  
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: November 15, 2010

By \_\_\_\_\_  
Matthew R. Burton, #210018  
Attorneys for Trustee Randall L.  
Seaver 100 South Fifth Street, Suite  
2500 Minneapolis, MN 55402  
(612) 332-1030

**VERIFICATION**

I, Matthew R. Burton, attorney for the moving party named in the foregoing Application for Interim Compensation, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on November 15, 2010

/e/ Matthew R. Burton

\_\_\_\_\_  
Matthew R. Burton

428647



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

Debtor.

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**UNSWORN CERTIFICATE OF SERVICE**

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I hereby certify that on November 15, 2010, I caused the following documents:

***Notice of Hearing and Application for Interim Compensation and Order  
(proposed)***

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

**SEE ATTACHED SERVICE LIST**

Dated: November 15, 2010

/e/ Stephanie Wood

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Stephanie Wood  
100 South Fifth Street, Suite 2500  
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(612) 332-1030

UNITED STATES RENT A CAR  
4744 PARADISE ROAD  
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ACE INSURANCE COMPANY  
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ALLEN EIDE  
3221 32ND AVENUE SOUTH  
SUITE 900  
GRAND FORKS ND 58201

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1060 DAKOTA DRIVE  
MENDOTA HEIGHTS MN 55120

AMERICAN EXPRESS  
P. O. BOX 0001  
LOS ANGELES CA 90096

AMERICAN NAT'L BANK OF MN  
7638 WOIDA RD  
BAXTER MN 56425

ANCHOR BANK  
1570 CONCORDIA AVE  
SAINT PAUL MN 55104

ANCHOR BANK  
P.O. BOX 7933  
MADISON WI 53707

AV CARD/OASIS  
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COCKEYSVILLE MD 21030

AXIS CAPITAL, INC.  
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AXLE CAPITAL, LLC / SAGECREST  
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GREENWICH CT 06830

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NORWOOD YOUNG AMERICA MN  
55368

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80 SOUTH EIGHTH STREET  
MINNEAPOLIS MN 55402

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CROSSLAKE MN 56442

CA BOARD OF EQUALIZATION  
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SACRAMENTO CA 94279-7072

CA DEPT OF MOTOR VEHICLES  
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SACRAMENTO CA 94269-0001

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STE. 700  
ENGLEWOOD CO 80111-4979

CITY OF ASPEN  
130 S. GALENA ST.  
ASPEN CO 81611

CITY OF BAYPORT  
294 N. 3RD STREET  
BAYPORT MN 55003

CITY OF MEDINA  
2052 CO RD 24  
HAMEL MN 55340

COMMUNITY NATIONAL BANK  
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VADNAIS HEIGHTS MN 55127

D&H DOCKS  
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SOLUTIONS  
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CROSSLAKE MN 56442

CROW WING COUNTY  
TREASURER  
JUDICIAL CENTER  
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DEERWOOD BANK  
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GARLICK STETLER & SKRIVIAN  
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ST. CROIX YACHT CLUB  
P.O. BOX 2263  
STILLWATER MN 55082

STATE OF MINNESOTA DEPT OF  
REVENUE  
600 NORTH ROBERT STREET  
ST. PAUL MN 55101

STORCHECK CLEANERS  
857 7TH STREET  
ST. PAUL MN 55106

SUMMERS PROPERTY  
MANAGEMENT  
111K AABC  
ASPEN CO 81611

TCF NATIONAL BANK  
801 MARQUETTE AVENUE  
MINNEAPOLIS MN 55402

TCHIDA, BRYANT D., ESQ.  
LEONARD STREET & DEINARD  
150 S 5TH ST STE 2300  
MINNEAPOLIS MN 55402

THE MIRAGE CASINO-HOTEL  
C/O MARK W. RUSSELL ESQ  
3400 LAS VEGAS BLVD S  
LAS VEGAS NV 89109

TOYOTA FINANCIAL SAVINGS  
BANK  
2485 VILLAGE VIEW DRIVE  
SUITE 200  
HENDERSON NV 89074

TOYOTA FINANCIAL SERVICES  
301 CARLSON PKWY, STE. 210  
MINNETONKA MN 55305

TOYOTA MOTOR CREDIT CORP  
301 CARLSON PKWY STE 210  
MINNETONKA MN 55305

U.S. BANK  
BC-MN-H22A  
800 NICOLLET MALL, 22ND  
FLOOR  
MINNEAPOLIS MN 55402

US BANK VISA CARD  
P.O. BOX 790408  
ST. LOUIS MO 63179

VENTURE BANK  
5601 GREEN VALLEY DRIVE  
SUITE 120  
BLOOMINGTON MN 55437

VFS FINANCING, INC.  
10 RIVERVIEW DR  
ATTN BETH BONELL  
DANBURY CT 06810

VICTORIA INSURANCE  
1100 LOCUST STREET  
DES MOINES IA 50391

VISION BANK  
3000 25TH ST. SOUTH  
P.O. BOX 10008  
FARGO ND 58106

WAGENER, MAURICE J.  
13700 WAYZATA BLVD  
HOPKINS MN 55305

WASHINGTON COUNTY  
TREASURER  
GOVERNMENT CENTER  
14949 - 62ND ST N  
STILLWATER MN 55082

WASHINGTON MUTUAL BANK,  
FA  
400 E MAIN ST  
STOCKTON CA 95290

WASTE PARTNERS  
P.O. BOX 677  
PINE RIVER MN 56474-0677

WATERFORD ASSOCIATION  
P.O. BOX 1353  
MINNEAPOLIS MN 55480-1353

WAYNE BELISLE  
1843 EAGLE RIDGE  
MENDOTA HEIGHTS MN 55118

WELLS FARGO  
C/O DAVID GALLE  
45 SOUTH SEVENTH ST, STE 3300  
MINNEAPOLIS MN 55402

WELLS FARGO BANK N.A.  
LOAN ADJUSTMENT GROUP  
90 SOUTH 7TH STREET  
MINNEAPOLIS MN 55402

WELLS FEDERAL BANK  
53 FIRST ST. SW  
WELLS MN 56097

WI DEPT OF TRANSPORTATION  
PO BOX 7949  
MADISON WI 53707

WILLIAM BRODY  
BUCHALTERNEMER  
1000 WILSHIRE BLVD, STE 1500  
LOS ANGELES CA 90017-2457

WORLD OMNI FINANCIAL CORP.  
190 JIM MORAN BOULEVARD  
DEERFIELD BEACH FL 33442

ZAPPIA, THOMAS M., ESQ.  
ZAPPIA & LEVAHN  
941 HILLWIND RD NE STE 301  
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STUART ROZEN  
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71 SOUTH WACKER DRIVE  
CHICAGO, IL 60606

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Chapter 7  
BKY No. 09-50779

Dennis E. Hecker,

Debtor.

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**ORDER ALLOWING INTERIM COMPENSATION**

The case is before the court on the application of Leonard, O'Brien, Spencer, Gale & Sayre, Ltd. for allowance of attorneys' fees and expenses. Based on the motion and the file, and the court being advised in the premises,

IT IS ORDERED: Interim compensation for services rendered from November 1, 2009 to August 31, 2010 and reimbursement of expenses incurred for the same period are allowed in the following amounts and the trustee may pay the fees and expenses from unencumbered, undisputed funds in such amount as the trustee believes appropriate taking into consideration other unpaid chapter 7 expenses as follows:

Attorneys' Fees:	\$456,925.75
Expenses:	<u>\$21,181.36</u>
Total:	\$478,107.11

Dated: \_\_\_\_\_

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United States Bankruptcy Court Judge